

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

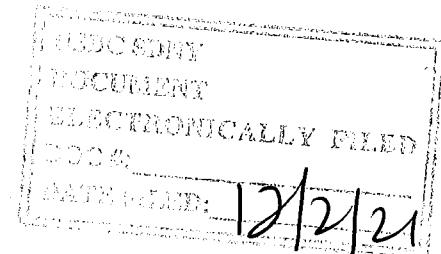
MANDY POULIN, Individually, MANDY POULIN, as Executrix of the Estate of Kurt Hiebaum,

Plaintiffs,

v.

UNITED STATES OF AMERICA,

Defendant.



19 Civ. 10959 (VB)

**WRONGFUL DEATH COMPROMISE
ORDER**

Upon the affirmation of plaintiff's counsel Christopher B. Meagher, Esq. of the firm of Meagher & Meagher, P.C. affirmed to the 30th day of November, 2021 seeking judicial approval to compromise the claims for pain and suffering and wrongful death of the Decedent against Defendant UNITED STATES OF AMERICA, for the total sum of NINE HUNDRED THOUSAND and 00/100 DOLLARS (\$900,000.00) with prejudice and without costs to any party against the other; the petition of Mandy Poulin, Executrix of the Estate of Kurt Hiebaum, Deceased, duly sworn to the 30th day of November, 2021; and upon all the exhibits, papers, pleadings and proceedings heretofore had herein and/or attached hereto for modification of the restrictions contained in the Limited Letters Testamentary heretofore issued by the Surrogate's Court of Westchester dated January 24, 2020 to the extent required to allow the compromise and settlement of the within matter; authorizing Petitioner to execute such releases and other papers necessary to effectuate the settlement and compromise; fixing and directing payment to Meagher & Meagher for reimbursements in the amount of \$42,310.04 and attorney's fees in the sum of \$225,000.00; following receipt of the settlement proceeds and upon proof of filing with the Surrogate's Court, Westchester County, a petition for allocation and distribution of the net settlement proceeds, permitting Meagher & Meagher to withdraw their expenses and

disbursements and attorney's fees; following receipt of the settlement proceeds, authorizing Meagher & Meagher, P.C. to pay to Medicare the sum of \$1,407.14 in full and final satisfaction of its lien; authorizing Meagher & Meagher, P.C. to deposit the balance of the proceeds into an interest bearing escrow account for the benefit of the decedent's estate until allocation and distribution by the Surrogate's Court, Westchester County; and for such other and further relief as the Court deems just and proper under the circumstances,

AND, the court having obtained jurisdiction of all necessary and proper parties to the proceedings;

AND, it appearing that Mandy Poulin, as fiduciary empowered and authorized to settle the causes of action asserted on behalf of decedent against Defendant UNITED STATES OF AMERICA,

AND, it appearing further that Medicaid will not object to the settlement of this action subject to the terms and conditions herein;

AND, it appearing further that Medicare will not object to the settlement of this action subject to the terms and conditions herein;

AND, it appearing to this Court that there is good cause to permit the fiduciary of the Estate of Kurt Hiebaum, deceased, to compromise the claims asserted herein and that such compromise is in the best interests of the Plaintiff-Fiduciary;

AND, it appearing that Mandy Poulin, as Executrix of the Estate of Kurt Hiebaum, deceased, in consideration of the settlement amount, seeks to release UNITED STATES OF AMERICA,

AND, it appearing further that the Petitioner is willing to accept the offer and the Defendant is willing to pay the same as directed by an order of this Court,

NOW, on all papers and proceedings heretofore had herein and upon the Petition of Mandy Poulin, as Executrix of the Estate of Kurt Hiebaum, deceased, duly verified the 30th day of November 2021, and the Affirmation of Christopher B. Meagher, Esq. affirmed to the 30th day of November 2021, it is hereby

ORDERED that, the restrictions contained in the Letters Testamentary heretofore issued by the Surrogate of Westchester County (Sall, J.) dated January 24, 2020, to Mandy Poulin, as Executrix of the Estate of Kurt Hiebaum, deceased, be and the same are modified to the extent required to allow the compromise and settlement of the within matter for the pain and suffering and wrongful death of the Decedent against Defendant UNITED STATES OF AMERICA, for the total sum of NINE HUNDRED THOUSAND and 00/100 DOLLARS (\$900,000.00) with prejudice and without costs to any party against the other; and it is further

ORDERED, that Mandy Poulin, as Executrix of the Estate of Kurt Hiebaum, deceased, herein, be and hereby is authorized and empowered to settle and compromise the cause of action for the decedent's pain and suffering and wrongful death against Defendant UNITED STATES OF AMERICA, for the total sum of NINE HUNDRED THOUSAND and 00/100 DOLLARS (\$900,000.00); and it is further

ORDERED that, upon full compliance with the terms and conditions of this Order, Mandy Poulin, as Executrix of the Estate of Kurt Hiebaum, deceased, is authorized, empowered, and permitted to execute and deliver general releases and any and all other documents necessary to effectuate the settlement herein; and it is further

ORDERED that, upon receipt of an executed (i) Stipulation for Compromise Settlement signed by the Plaintiffs and Plaintiffs' counsel; (ii) a Compromise Order approving the settlement on behalf of the estate of Kurt Hiebaum; (iii) a completed Payment Information Form

from the Department of Health and Human Services (identifying name of bank, address of bank, city, state, and zip code of bank, routing number, account name, account number, and type of account); and (iv) a Dismissal Order, dismissing this Action with prejudice; counsel for the United States will send a request within ten (10) business days to the appropriate agency official or component requesting that the Settlement Amount be sent by electronic fund transfer payable to Meagher & Meagher, P.C.; and it is further

ORDERED that, reimbursement to Meagher & Meagher, P.C. of costs and disbursements in the sum of \$42,310.04 and attorney's fees in the sum of \$225,000.00 for the prosecution of this case as to this defendant is hereby fixed and approved; and it is further

ORDERED that, upon receipt of the settlement proceeds, Meagher & Meagher, P.C., as attorneys for Plaintiff-Fiduciary, will hold same in an interest-bearing escrow account in the name of Mandy Poulin, as Executrix of the Estate of Kurt Hiebaum, deceased, pending compliance with the further provisions of this Order; and it is further

ORDERED that, following receipt of the settlement proceeds, Meagher & Meagher, P.C., as attorneys for Plaintiff-Fiduciary, shall pay to Medicare the sum of \$1,407.14 in full and final satisfaction of its lien from the escrow account; and it is further

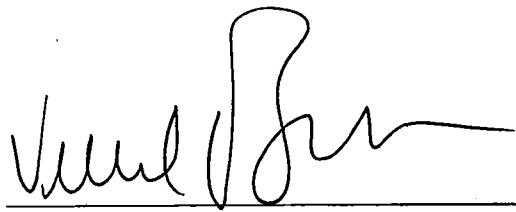
ORDERED, that Mandy Poulin, as Executrix of the Estate of Kurt Hiebaum, deceased, shall file a Petition in the Surrogate's Court, Westchester County, for approval of the distribution and allocation of the settlement proceeds within thirty (30) days from the date of this order; and it is further

ORDERED, that upon proof of filing with the Surrogate's Court, Westchester County, a petition for allocation and distribution of the net settlement proceeds, Meagher & Meagher, P.C. is authorized to withdraw their expenses and disbursements in the amount of \$42,310.04 and

attorney's fees in the amount of \$225,000.00 from the escrow account; and it is further ORDERED that, counsel, pursuant to E.P.T.L. 5.4-6(a)(3), shall continue to serve as attorney for the Plaintiff-Fiduciary of the Estate of Kurt Hiebaum until entry of a final Decree in the Surrogate's Court as to the allocation and distribution of the net settlement proceeds, without charge to the estate for additional legal fees; and it is further

ORDERED, that the filing of a bond be dispensed with in accordance with the applicable provisions of the New York Civil Practice Law and Rules.

12/2/2021
Date



HONORABLE VINCENT BRICCETTI
United States District Judge
Southern District of New York